

PRESS RELEASE

Travis Silva
travis.silva@clinics.yale.edu
(203) 436-1933

Cody Wofsy
cody.wofsy@clinics.yale.edu
(510) 219-4771

Challenge to Immigration Detainers and Secure Communities Filed: Detainees in Proposed Class Action Request Expedited Court Action

New Haven, Conn. – Today, as federal immigration authorities roll out their controversial Secure Communities program across the state, Sergio Brizuela, on behalf of a proposed class of all persons held by the Connecticut Department of Correction (DOC) based solely on a U.S. Immigration and Customs Enforcement (ICE) administrative detainer notice, requested that the U.S. District Court issue an order expediting their federal constitutional challenge. The request came in a federal habeas action filed last week, two days before Homeland Security Secretary Janet Napolitano announced the activation of Secure Communities in Connecticut.

Mr. Brizuela and the proposed class contend that confinement based solely on an ICE detainer notice – the mechanism on which Secure Communities depends - violates the Fourth, Tenth, and Fourteenth Amendments of the Constitution. Mr. Brizuela and the proposed class are represented by the Worker and Immigrant Rights Advocacy Clinic of Yale Law School.

The lawsuit and request for expedited treatment come as hundreds of Connecticut residents across the state have joined their local elected officials and law enforcement leaders in opposing this misguided program. A coalition of community groups, labor, and faith organizations delivered a letter to Governor Malloy this morning demanding that Connecticut refrain from honoring certain immigration detainers if ICE does not delay the implementation of Secure Communities. The Brizuela suit complements community resistance to the immigration authorities' unconstitutional program.

Secure Communities forces every state, local, and tribal police officer to become an immigration officer, commandeering local resources in service of federal immigration policy and undermining the commitments of local police departments to community policing. Local law enforcement agencies routinely send arrestees' fingerprints to the FBI for criminal background checks for the purposes of criminal investigation and public safety. Under Secure Communities, the FBI forwards those fingerprints to ICE. After comparing those fingerprints against its own biometric database, ICE can issue an immigration detainer to local authorities. The Department of Correction has a practice of honoring these detainers, even when the individual is arrested for traffic offenses and minor misdemeanors.

An immigration detainer is not a warrant: it is not based on sworn evidence, reviewed by an independent judge, or issued after a constitutionally required probable cause hearing. It is merely an administrative notice requesting that the local agency continue to detain an individual, even after that person would otherwise be released from state custody, until ICE comes to take custody. An immigration detainer carries no legal authority to order such continued detention, nor does it authorize continued detention. Nevertheless, the Connecticut DOC routinely enforces these detainers by holding individuals, at the state's expense, for as many as five days. Now that Secure Communities is active statewide, many more Connecticut residents will be swept up and held on these illegal immigration detainers.

“Detainers are the linchpin of the Secure Communities program. Without them, the program cannot function,” stated Matthew Vogel, law student intern at the Worker and Immigration Rights Advocacy Clinic. “But confinement pursuant to these ICE notices is unconstitutional and unauthorized by Congress. The Department of Correction cannot hold people without lawful authority to do so.”

Today, February 22, 2012, Mr. Brizuela filed a motion in U.S. District Court requesting that the class action be expedited in light of the activation of Secure Communities and the increase in unlawful detention that it will likely bring. The motion asks the Court to order the Department of Correction to answer the lawsuit within days.

The case is *Brizuela v. Feliciano, et al.*, No. 3:12-civ-226 (D. Conn filed Feb. 13, 2012).

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